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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,546	02/09/2004	Michael J. Duffy	TPL 0139 PUS	1121

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EXAMINER
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GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/774,546

Applicant(s)

DUFFY, MICHAEL J.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 15-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/9/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 8-14 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/17/05.
2. Applicant's election with traverse of species I in the reply filed on 3/17/05 is acknowledged. The traversal is on the ground(s) that a packaging process and a structure are materially related and that the examination and search of the additional claim set would not seriously burden the examiner. This is not found persuasive because the inventions are related as product and process of use. The inventions are distinct since the process can be practiced with another materially different product and since the search required for Group II is not required for Group I. The inventions have acquired a separate status in the art because of their recognized divergent subject matter and a restriction is proper. Furthermore, the search and examination of the additional claims would seriously burden the examiner. The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-7 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "said closure" in line 3, "said coil" in line 6, and "said link" in line 10. There is insufficient antecedent basis for these limitations in the claim.

Claim 15 recites the limitations "said closure" in line 4, "said coil" in line 6, and "the coil" in line 7. There is insufficient antecedent basis for these limitations in the claim.

Claim 16 recites the limitation "said link" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "said mount" in line 2. There is insufficient antecedent basis for this limitation in the claim. Perhaps this claim should depend from claim 16.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagy in view of Barkley.

Nagy (6,618,904) discloses a vehicle closure hinge for a vehicle body with a compartment opening, the hinge comprising: a link assembly forming a scissors link for displacing said closure hinge with respect to said opening; a spring 44, integrally carried by said

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link assembly, and having a laterally coiled strand, said coil strand having a first coil end with a first strand end, an opposite end, and a second strand portion extending across the coil from said opposite coil end to said first coil end, to engage said link assembly at said first coil end; and a mount 12 securing said link assembly to said vehicle body.

Nagy lacks the closure hinge mounted in a peripheral channel of the vehicle body.

Barkley (6,070,929) teaches a deck lid linkage placed in a peripheral channel of a compartment opening of a vehicle body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the closure hinge of Nagy in a peripheral channel as taught by Barkley in order to provide the closure hinge out of the way.

With regard to claim 2, the integral assembly is installed as a unit in said channel.

With regard to claim 3, said strand is geometrically shaped to adjust spring biasing tension in said coil.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagy, as modified, and applied to claim 1 above and further in view of Watanabe.

Nagy, as modified, lacks the strand having a rectangular and specifically a square cross section.

Watanabe (6,193,225) teaches a spring having a square cross section in order to vary the spring constant.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the strand of Nagy with a square cross section as taught by Watanabe in order to vary the spring constant of the spring.

8. Claims 1 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borsani in view of Nagy and Barkley.

Borsani (3,363,281) discloses a vehicle closure hinge for a vehicle body with a compartment opening, the hinge comprising: a link assembly forming a scissors link for displacing said closure hinge with respect to said opening; a spring 17, integrally carried by said link assembly; and a mount 1 securing said link assembly to said vehicle body.

With regard to claim 6, said link assembly comprises a Watt six bar mechanism.

With regard to claim 7, at least two bars 5, 9 in said link assembly are duplicates.

Borsani lacks the specific spring claimed.

Nagy (6,618,904) teaches a vehicle closure hinge for a vehicle body with a compartment opening, the hinge comprising: a link assembly forming a scissors link for displacing said closure hinge with respect to said opening; a spring 44, integrally carried by said link assembly, and having a laterally coiled strand, said coil strand having a first coil end with a first strand end, an opposite end, and a second strand portion extending across the coil from said opposite coil end to said first coil end, to engage said link assembly at said first coil end; and a mount 12 securing said link assembly to said vehicle body.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the spring as taught by Nagy upon the hinge of Borsani in order to allow the door or closure member to pop-up and assist a user in opening the closure.

Borsani, as modified, lacks the closure hinge mounted in a peripheral channel of the vehicle body.

Barkley (6,070,929) teaches a deck lid linkage placed in a peripheral channel of a compartment opening of a vehicle body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the closure hinge of Borsani, as modified, in a peripheral channel as taught by Barkley in order to provide the closure hinge out of the way.

9. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borsani in view of Nagy.

Borsani (3,363,281) discloses a vehicle closure hinge for a vehicle body with a compartment opening and a closure panel (inherent, not shown), the hinge comprising: a Watt six-bar link assembly forming a scissors link for displacing said closure panel with respect to said opening; and a spring 17, integrally carried by said link assembly.

With regard to claim 16, a mount 1 is provided to installing said link as a unit in said vehicle body.

Borsani lacks the specific spring claimed.

Nagy (6,618,904) teaches a vehicle closure hinge for a vehicle body with a compartment opening, the hinge comprising: a link assembly forming a scissors link for displacing said

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closure hinge with respect to said opening; a spring 44, integrally carried by said link assembly, and having a laterally coiled strand, said coil strand having a first coil end with a first strand end, an opposite end, and a second strand portion extending across the coil from said opposite coil end to said first coil end, to engage said link assembly at said first coil end; and a mount 12 securing said link assembly to said vehicle body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the spring as taught by Nagy upon the hinge of Borsani in order to allow the door or closure member to pop-up and assist a user in opening the closure.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borsani, as modified, and applied to claim 16 above and further in view of Barkley.

For claim 17, Borsani, as modified, lacks the closure hinge mounted in a peripheral channel of the vehicle body.

Barkley (6,070,929) teaches a deck lid linkage placed in a peripheral channel of a compartment opening of a vehicle body.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to place the closure hinge of Borsani, as modified, in a peripheral channel as taught by Barkley in order to provide the closure hinge out of the way.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

13. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231


**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label

"PROPOSED" or "DRAFT").

  
Hilary Gutman  
April 13, 2005